IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4733 OF 2003

Mr.Girish Godbole for the Petitioner.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 8TH JUNE,2005

P.C.:

The Appellate Court in exercise of discretionary power granted temporary injunction in favour of the Plaintiff. Temporary injunction is granted in two parts.

(i) the Defendant restrained from disturbing possession of the Plaintiff of the shop. The Plaintiff admittedly is in possession of the shop. Therefore, no exception can be taken to that part of the order. The grievance is

made that the orders should have been that the Defendant is restrained from disturbing possession of the Plaintiff unless he takes recourse to law. In my opinion, such modification is not necessary, because in case the Defendant secures an order from the competent court for possession he can always move the court and seek suitable orders;

(ii) Second part of the order of the temporary injunction is that the Defendant is directed not to close the door which is described at Exh.B-1. Admitted position is that from 1995 that door was being kept open. What has been done by the Appellate court, the facility which was enjoyed by the Plaintiff uninterruptedly from 1995 is continued in favour of the Plaintiff. I do not find that this will result in failure of justice. The order impugned is an order in the discretion of the court. Petition is rejected.

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